

***United States Court of Appeals  
for the Second Circuit***



**APPELLEE'S BRIEF  
AND  
APPENDIX**



*Orig - Containing  
Affidavit of  
Raising*

# 75-1356

*B  
P/S*

To be argued by  
CAROL B. AMON

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## United States Court of Appeals FOR THE SECOND CIRCUIT

Docket No. 75-1356

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UNITED STATES OF AMERICA,

—against—

WILLIAM RAMSDEN,

*Appellee,*

*Appellant.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

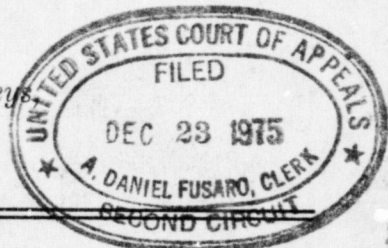
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### BRIEF AND APPENDIX FOR THE APPELLEE

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## FOR THE SECOND CIRCUIT

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### BRIEF FOR THE APPELLEE

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#### Preliminary Statement

William Ramsden appeals from a judgment of conviction of the United States District Court for the Eastern District of New York (Neaher, J.), entered October 3, 1975, which judgment convicted appellant, after a jury trial, of knowingly possessing with intent to distribute approximately four ounces of cocaine in violation of Title 21, United States Code, Section 841(a)(1) and Title 18, United States Code, Section 2 (Count One), and of knowingly attempting to distribute the cocaine in violation of Title 21, United States Code, Section 846 and Title 18, United States Code, Section 2 (Count Two).<sup>1</sup>

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<sup>1</sup> Audrey Joseph and James Glass, named as co-defendants with appellant in both Counts One and Two, pled guilty prior to the trial of the appellant.

On October 3, 1975, Judge Neaher sentenced appellant to imprisonment for three years, to serve six months; the balance of the sentence was suspended and appellant was placed on probation for three years and given special parole term of five years. Appellant is presently incarcerated.

Appellant's sole contention on this appeal is that the trial court erred in denying defense counsel's motion to exclude taped telephone conversations between a Government agent, who was a witness at trial, and a co-defendant of appellant not on trial. Appellant argues that there was never sufficient proof adduced to connect him with the conspiracy so as to permit the introduction into evidence of statements made by other members of the conspiracy. Federal Rules of Evidence, Rule 801(d)(2)(E).<sup>2</sup>

## Statement of the Case

### A. The Government's Case

Marvin Siegel was the Government's principal witness at trial. He identified himself as a Special Agent of the Drug Enforcement Administration who, on October 12, 1973, was working in an undercover capacity (T. 95).<sup>3</sup> On that date, Siegel received a telephone call from James Glass at an undercover telephone. Glass, who knew Siegel by the name of "Marvin Gold", told Siegel that he would be able to sell to him three ounces of cocaine on the following Sunday. Siegel, however, called Glass back

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<sup>2</sup> The trial in this case began on July 28, 1975.

<sup>3</sup> Numerical references with the prefix "T" are to pages of the trial transcript. References with the suffix "a" refer to pages in the Government's Appendix which has been appended to this brief.



that same day and told him he would not be able to obtain the money for the cocaine until Monday, October 15, 1973. Glass agreed to conduct the deal on that Monday (T. 97).

On October 15, Glass and Siegel engaged in three separate telephone conversations concerning the anticipated deal, all of which were recorded by Agent Siegel.<sup>4</sup> In the first, in response to an inquiry made by Siegel as to whether the cocaine deal could be transacted that evening, Glass stated he would be in contact with his source of supply and Siegel would have to get back to him later in the day. Glass also agreed in this conversation to have four ounces of cocaine for Siegel instead of three. In the second call made by Siegel at 6:00 o'clock that evening, Glass informed him he was still arranging the deal, and indicated that his connection was a female. In the third and last conversation, Glass called Siegel and arranged to meet him that evening at 9:45 P.M., at the corner of Flatbush and DeKalb Avenues in Brooklyn (T. 98-101).

Before meeting Glass, Siegel obtained \$3,500 in official government funds and placed a Kel transmitting device on his body. The purpose of the Kel, as explained by Siegel, was to enable surveillance agents to overhear and record what was said during the transaction. Accompanied by Special Agent Andrew Smith, Siegel proceeded to Flatbush and DeKalb Avenues where they met with Glass. At the direction of Glass, Agents Siegel and Smith proceeded with Glass to 251 Kane Street (T. 117-119). During the trip to Kane Street, Glass told Siegel

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<sup>4</sup> The taped conversations were admitted into evidence subject to connection and played to the jury. Transcripts of those conversations were given to the jury while the tapes were played; these transcripts are reproduced in their entirety in the Government's Appendix at pages 1a-9a.

that the price of the cocaine would be \$850 an ounce and that Siegel would have to accompany him to meet his source of supply; it was agreed that Agent Smith would wait in the car with the money. Upon arrival at the corner of Kane and Court Streets, they were met by Audrey Joseph whom Glass indicated was his connection (T. 120-121).

Joseph explained to Siegel and Glass that they would have to accompany her to 251 Kane Street and that Glass would have to wait upstairs while she went downstairs to get the cocaine from "her man" (T. 122). Joseph brought Siegel and Glass to Apartment 7A at 251 Kane Street described by Siegel as a duplex apartment with an inside staircase leading from the upper level and landing area to the lower apartment. Joseph told Glass and Siegel, as they stood on the upper level, that she would have to go downstairs to the lower apartment to get the cocaine. Siegel stood at the top of the staircase and observed Joseph walk down to the foot of the inside stairs and meet with the appellant (T. 129-131).<sup>5</sup> Siegel observed the appellant hand something to her, and Joseph returned up the stairs carrying four plastic bags containing a white powder. Siegel stated that, at the time, Joseph was wearing blue jeans and a tight sweater and that she had nothing in her hands when she walked down the stairs. He further stated that she was never out of his view from the time she descended the stairs to the time she returned with the four plastic bags of white powder (T. 130).

Agent Siegel weighed the white powder on a scale Joseph had in the apartment, performed a field test on one of the packages using a chemical reagent and then initialed each of the packages (T. 131).

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<sup>5</sup> This was the first time that Siegel saw appellant.

Siegel, Glass and Joseph agreed that Glass would hold the cocaine and remain in the apartment while Siegel and Joseph went outside to get the money. The exchange was to be made when they returned. During this discussion, Joseph called down to the lower half of the apartment the name "Bill". After a second call, appellant Ramsden came up the staircase and joined the trio on the landing. She told the appellant she was going down to the car and get the money and she wanted him to watch the hallway. He agreed (T. 135).

Glass then placed the cocaine in his jacket pocket and Siegel, Joseph and Ramsden walked down the common exterior staircase. Ramsden entered the bottom half of the apartment leaving the door ajar, and observed Siegel and Joseph continue down the staircase and leave the building. Once outside, Siegel placed Joseph under arrest, and left her in the custody of other agents (T. 135).

Agent Siegel returned to the duplex apartment and entered the lower half of the apartment where he placed appellant under arrest.<sup>6</sup> Siegel then proceeded up the interior staircase and out the door leading to the outside hallway and down the outside stairs where he found and arrested Glass; he returned up the staircase and recovered the plastic bags containing the white powder on the common landing outside the apartment (T. 137).<sup>7</sup>

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<sup>6</sup> Also arrested along with appellant was Flosell Telfair, a man who was present in the lower half of the apartment with appellant (T. 301).

<sup>7</sup> The defense and the government entered into a stipulation that these bags contained cocaine and that there was no break in the chain of custody from the time Siegel recovered the cocaine on the landing to their introduction into evidence at trial.



## B. The Defense Case

Through the testimony of four witnesses, the last of which was the appellant, the defense sought to establish that the appellant was a man of good character who in efforts to aid a friend who was looking for an apartment was unwittingly at the location of the cocaine transaction (T. 285-385).<sup>\*</sup>

The appellant testified in his own behalf that he had known Audrey Joseph for four years and that he had a chance meeting with her three weeks prior to his arrest in which she informed him she had moved and gave him her new address (T. 337, 355-356). On the evening in question, Ramsden maintained that he paid Joseph a purely unplanned social visit together with a friend, Flossell Telfair, whom he just happened to run into at a bar that same evening (T. 338-339). Ramsden stated that Telfair did not know Joseph (T. 357). Ramsden maintained that he was in the duplex apartment in Joseph's building because he knew another friend, Nancy Gallenson, was looking for an apartment (T. 340-341). Ramsden, however, could not remember whether Gallenson ever personally told him that (T. 341). Similarly, Miss Gallenson, who also testified for the defense, could not recall mentioning this fact to either Ramsden or Telfair (T. 287).

The appellant testified that Joseph showed Telfair and him the apartment, excused herself without an explanation, and left them in the lower half of the duplex. Sometime later, he stated, he heard her voice and was aware that she was upstairs with others (T. 367, 345). In direct contrast to the testimony of Agent Siegel, Ramsden

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<sup>\*</sup> George Herzog who had once employed the services of the appellant as a carpenter, testified that he had a good reputation in the community (T. 329-333).

testified that he never met Audrey Joseph at the bottom of the inside staircase, neither did he give her anything, nor did he ever ascend the inside staircase and meet with Glass, Siegel and Joseph (T. 349, 351). He also denied any other conversation with Joseph after she left them other than shouting up to her concerning the rent for the apartment (T. 350-351). Ramsden admitted that he made no inquiries of Miss Joseph as to the particulars of whom Miss Gallenson should contact were she interested in the apartment (T. 366-367).

Flosell Telfair, who was also arrested in the lower apartment along with Ramsden, testified for the appellant. Telfair stated that he and Joseph did not know each other nor did she inquire as to his occupation before showing him the apartment in which she conducted the cocaine transaction (T. 309). Mr. Telfair testified that Joseph escorted them into the vacant apartment, left them, and did not tell them where she was going or when she was returning (T. 312). He echoed the litany of denials testified to by Ramsden as to Ramsden's meeting with Joseph and going upstairs (T. 317-318, 296-298). Telfair testified that he and other friends of Ramsden called him "Bill" (T. 315).

### C. The Rebuttal Case

In rebuttal to Ramsden's contention that he never joined Agent Siegel, Glass and Joseph on the upper level of the apartment and took part in the discussion as to how the drug exchange would take place, the government introduced a portion of the Kel recording.<sup>9</sup>

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<sup>9</sup> Judge Neaher found that portion of the tape requested to be played by the Government was audible and allowed the tape and a transcript thereof to be presented to the jury (T. 399; A. 10-13).

From the taped conversation, it was clear that Audrey Joseph while on the upper level with Glass and Siegel addressed an individual as "Bill" who responded "yeah" and whom she asked to watch her go down and collect the money. From the loudness of the voices, it was apparent that Ramsden was in close proximity to Joseph when this conversation took place and not downstairs. The tape also reflects that she addressed him a second time.

## ARGUMENT

**Taped conversations between Agent Siegel and a co-defendant of the appellant were properly admitted into evidence at trial as statements of a co-conspirator.**

It is well-settled that statements of a co-conspirator or co-defendant made in furtherance of a conspiracy or joint venture are admissible provided that there is proof by a fair preponderance of the evidence that the defendant participated in the conspiracy or joint venture independent of these statements. Federal Rules of Evidence, Rule 801(d)(2)(E); *United States v. Torres*, 519 F.2d 723, 725 (2d Cir. 1975); *United States v. Projansky*, 465 F.2d 123, 137 (2d Cir. 1972), *cert. denied*, 409 U.S. 1006 (1972); *United States v. Geaney*, 417 F.2d 1116, 1120 (2d Cir. 1969), *cert. denied*, 397 U.S. 1028 (1970); *United States v. Ragland*, 375 F.2d 471, 476 (2d Cir. 1967), *cert. denied*, 390 U.S. 925 (1968). Appellant does not dispute the fact that the foregoing is a proper statement of the law or that the taped conversations were statements made in furtherance of the joint venture. He argues that there was insufficient independent evidence linking him to the joint venture to trigger the admissibility of the co-conspirator's conversations. Such an argument is frivolous.



The Government by independent evidence proved the defendant's participation in the cocaine sale not merely by the required test of fair preponderance, but beyond a reasonable doubt.

Agent Siegel testified that Audrey Joseph, empty-handed, wearing only a tight sweater and a pair of blue jeans, walked to the bottom of the stairs and was handed something by the appellant. When she returned up the stairs she was carrying the four packages of cocaine, which the agent was to purchase. She was not out of his view for a moment (T. 129-131). Nothing in the evidence presented lends even the smallest shred of support to appellant's speculative contention that Joseph could have had the four packages of cocaine in her pocket or could have picked them up somewhere along the stairs.

In addition, Agent Siegel testified that the appellant was called upstairs by Joseph and present during their discussion as to how the deal would be finalized. Joseph explained to appellant that she was going out to get the money and asked the appellant to watch the hallway (T. 135). Appellant went out of the apartment with Glass and Joseph down the outside stairs to the door of the lower half of the apartment and, as instructed by Joseph, watched them and the hallway as they went out of the building (T. 135). This testimony was corroborated by the Kel recording (7a-11a). Appellant's claim that such a discussion and activity was perfectly consistent with innocence since it was not surprising "that a young woman, about to go out into the street at night, with a man she's never met before, would ask a friend to watch her progress, and make sure she returned safely" when considered in the context of the surrounding circumstances is absurd.

The independent evidence presented by the Government in this instance more than satisfied the fair preponderance standard. Compare, *United States v. Tramunti*, 513 F.2d 1087, 1108-09 (2d Cir. 1975); *United States v. Cirillo*, 499 F.2d 872, 884 (2d Cir.), cert. denied, 419 U.S. 1056 (1974) (Appellant Lilienthal). Cf. *United States v. Kaplan*, 510 F.2d 606, 609 (2d Cir. 1974), reversing on other grounds, remanded for new trial.

### CONCLUSION

**The judgment of conviction should be affirmed.**

Respectfully submitted,

December 22, 1975

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**APPENDIX**

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I.

TELEPHONE CONVERSATION BETWEEN SPECIAL  
AGENT SIEGEL AND JAMES GLASS RECORDED  
ON OCTOBER 15, 1973

UNKNOWN Good Afternoon, A & S.  
SIEGEL Mr. Glass, please.  
UNKNOWN Thank you (ringing)  
UNKNOWN Accounts payable.  
SIEGEL Can I speak to Mr. Glass, please.  
UNKNOWN Who's calling?  
SIEGEL This is Mr. Gold, a personal call.  
UNKNOWN Hold on, please.  
SIEGEL Thank you.  
GLASS Marvin.  
SIEGEL Yea, Jim.  
GLASS Yeah, yeah. . . I'll give you a ring tonight.  
I'm going to call her in about . . . ah,  
20 minutes.  
SIEGEL Yeah, could you call me back soon cause  
I want to go out to eat.  
GLASS Alright, go out to eat ah . . . I'm going  
to be working.  
SIEGEL Well . . .  
GLASS You know what . . . call me here . . . ah.  
SIEGEL How late are you going to be there?  
GLASS I'll be here till six . . . I'll be here till after  
six. . . . Call me about six o'clock. . .  
SIEGEL Okay.  
GLASS Okay, so do what you have to do and give  
me a ring.  
SIEGEL Alright, the only thing I wanted to tell  
you was I just spoke to John and ah he  
wanted to know if he could get one for  
himself.  
GLASS So all together four, right?

SIEGEL Yeah, so I'll pick it up for him and lay the money out.

GLASS Okay.

SIEGEL You know, alright?

GLASS No problem. I'll get you . . . you know I'll make out the arrangements for tonight.

SIEGEL Alright, so I'll call you back at six, but don't leave until you hear from me.

GLASS I won't leave until I hear from you.

SIEGEL Okay.

GLASS I may leave and come back but I'll be back at six, so don't call before six.

SIEGEL Ah what time do you think we'll be able to take care of it. . .

GLASS I'll let you know.

SIEGEL Because I got to work something out.

GLASS Probably about 7:30 or 8:00.

SIEGEL Ah, good.

GLASS Okay.

SIEGEL Yes, I'll call you at six.

GLASS I'll speak to you then . . . alright bye.

SIEGEL By.

## END OF CONVERSATION

## II

TELEPHONE CONVERSATION BETWEEN SPECIAL  
AGENT SIEGEL AND JAMES GLASS RECORDED  
ON OCTOBER 15, 1973

UNKNOWN A & S

SIEGEL Ah, Mr. Glass, please.

UNKNOWN Mr. Glass

SIEGEL Yeah.

UNKNOWN Is that James Glass.

SIEGEL Yes.

UNKNOWN I'm ringing.

UNKNOWN     Accounts payable.  
SIEGEL        Ah, Is Mr. Glass, there, please?  
UNKNOWN       May I say who's calling, sir?  
SIEGEL        Ah, Mr. Gold...personal call.  
UNKNOWN       Okay, one second.  
SIEGEL        Thank you.  
GLASS          Marvin?  
SIEGEL        Yea.  
GLASS          Yea, I'm waiting for her to call back.  
SIEGEL        So, ah does it look good...or what.  
GLASS          Is John coming . . or a . . .  
SIEGEL        What?  
GLASS          Is John going to be with you?  
SIEGEL        I don't think so, he says I should drop it  
                 off to his house later on tonight.  
GLASS          Okay, give me your number quick . . .  
                 and I'll . . . soon as she calls, I'll give you  
                 a ring back.  
SIEGEL        Ah, I'm still in the house.  
GLASS          Alright I'm not at my desk.  
SIEGEL        Okay, 586-7159.  
GLASS          Okay, fine.  
SIEGEL        Wait...I got a couple questions I want  
                 to ask you, too.  
GLASS          Go ahead.  
SIEGEL        Should I ask you now?  
GLASS          Go ahead, and if I can answer them I'll  
                 answer them.  
SIEGEL        Alright, we'll talk about you know, how  
                 good it is and the money later.  
GLASS          Yea, right.  
SIEGEL        I don't want to talk about that on the  
                 phone but a . . . I asked John if it was  
                 alright if I got a ride with somebody out  
                 there. You know, is that okay with you?  
GLASS          Oh Gese, your going to have to leave him  
                 somewhere and come with me.

SIEGEL            Alright, cause the only other thing is I'm  
not going to put any money out, man.  
You know that.

GLASS            What do you mean?

SIEGEL           Put any money out front.

GLASS           No, no you come with me.

SIEGEL           Alright, cause its a lot of . . . its a lot of  
bread, and you know I'm al. . . I get  
shakey . . . man.

GLASS           Don't worry about it.

SIEGEL           Alright.

GLASS           Okay

SIEGEL           Okay.

GLASS           I'll speak to you in about ten minutes.

SIEGEL           Okay, John said you should give him a  
call if you get a chance.

GLASS           Okay, I'm going to call him up right now.

SIEGEL           Okay, I'll speak to you then.

GLASS           Alright, bye.

SIEGEL           Goodbye.

END OF CONVERSATION

### III

#### TELEPHONE CONVERSATION BETWEEN SPECIAL AGENT MARVIN SIEGEL AND JAMES GLASS RECORDED ON OCTOBER 15, 1973

SIEGEL           Hello . . .

GLASS           Marvin?

SIEGEL           Yea.

GLASS           Jimmy

SIEGEL           Yeah.

GLASS           Ah, can't make it before ten o'clock.

SIEGEL           Oh man, you think its definitely going to  
be though.

GLASS           Yeah, she told me. . .

SIEGEL           I got somebody's money.

GLASS           You know she doesn't disappoint me. . .

                 Ah . . . you know where A & S is in  
Brooklyn.



SIEGEL Yeah.  
GLASS I'll meet you right in front of A & S.  
SIEGEL On Flatbush Avenue... like.  
GLASS Yeah, I'll meet you right in front of A & S.  
SIEGEL What time?  
GLASS Ah... quarter to ten.  
SIEGEL I'll tell you the only thing that is got me a little upset... Did you speak to John?  
GLASS No, not yet why?  
SIEGEL You know we're talking about a lot of money, man.  
GLASS Don't worry about it. I did business with John...  
SIEGEL Yeah, I know but...  
GLASS You know where I live you know where I work.  
SIEGEL I done business with a lot of people and I'm wise...  
GLASS It's not like... wait a second... It's not like you don't know where I live, you don't know where I work. I don't even know you... you know if you really...  
SIEGEL No, I know... we're in the same boat.  
GLASS I wouldn't want... I'm going to call John. I'd like him to come along.  
SIEGEL That's fine with me.  
GLASS I would sooner have John come along. Why don't you call and tell him your doing it tonight and I want (you... I want) him to come along.  
SIEGEL Alright...  
GLASS Okay tell him to call me.  
SIEGEL See, I told him that man.  
GLASS Cause I was going to call him and tell him... you know.  
SIEGEL I told him that before and he said he can't come, you know I'll call him again.

GLASS            Alright, call him and tell him to call me  
                  at the store.

SIEGEL          I just got to watch myself.

GLASS            Tell him that I'm going to call him in  
                  about an hour. Okay.

SIEGEL          Yeah.

GLASS            Okay.

SIEGEL          So, ah . . .

GLASS            Quarter to ten in front of A & S.

SIEGEL          Alright, now what happens if John can't  
                  make it?

GLASS            Ah. . . We'll worry about that at a quarter  
                  to ten, Okay?

SIEGEL          Alright good. Yeah, I'm going to be out  
                  there definitely.

GLASS            Okay, it's on Fulton and Hoyt Street right  
                  on the corner there. You'll see a "Chock  
                  Full-A-Nuts" I'll meet you there.

SIEGEL          Alright, yeah, are we going to have to  
                  drive around a lot cause I'm going to have  
                  to get hold of a car. . . You don't want  
                  nobody driving.

GLASS            He can stay there . . . and I'll take a ride  
                  with you in my car for like ten minutes.  
                  It's a ten minute ride . . . five minutes  
                  from here.

SIEGEL          Alright.

GLASS            Okay.

SIEGEL          Yeah.

GLASS            I'll meet you right in front of the Chock  
                  Full of Nuts.

SIEGEL          Chock Full of Nuts, let me write that  
                  down.

GLASS            It's on Hoyt and Fulton Streets in  
                  Brooklyn.

SIEGEL          Hoyt and Fulton.

GLASS            Your coming from where? The Village  
                  right?

SIEGEL        Manhattan, yeah I'm going to take the  
                  Manhattan or Brooklyn Bridge.

GLASS         Take the Manhattan Birdge to ah . . .  
                  Fulton Street and turn right . . . okay.  
                  It's right after L.I.U., on DeKalb Avenue.  
                  Right where L.I.U. and Juniors are you  
                  turn right. That takes you right into  
                  Fulton Street.

SIEGEL        Alright, take that to Fulton Street.

GLASS         Take it to. . . You know where Juniors is?

SIEGEL        What's . . . no.

GLASS         Okay, I'll meet you on the corner of ah . . .  
                  Flatbush and DeKalb, you'll see Juniors  
                  Restaurant. I'll meet you right there at  
                  ten o'clock.

SIEGEL        Flatbush and DeKalb.

GLASS         Right, okay.

SIEGEL        Alright.

GLASS         I'll meet you there at ten o'clock . . at a  
                  quarter to ten.

SIEGEL        Quarter to ten, I'll meet you there.

GLASS         Right.

SIEGEL        Okay.

GLASS         Alright.

SIEGEL        Alright, good by.

END OF CONVERSATION

KEL RECORDING-OCTOBER 15, 1973

GLASS         Somebody's . . . inaudible . . . downstairs.

JOSEPH        What's goin on downstairs?  
                  Yo!

VOICE         I think it's, Joel.

JOSEPH        Who is it.

VOICE         Joel.

VOICE 2       Joel.



JOSEPH Forget it.  
 VOICE What?  
 JOSEPH Forget it, later.  
 VOICE How long you gonna be here?  
 JOSEPH Oh, tell him to wait I don't need him any-  
 more. . . Tell him to wait.  
 VOICE All right.  
 JOSEPH That's my, my protection so I don't get  
 raped—Laugh.  
 SIEGEL Hey, all I want to do is get the package  
 and get the fuck out of here . . . inau-  
 dible.  
 JOSEPH Inaudible.  
 SIEGEL After this time, inaudible . . . time, I'll  
 put the money out to you 'cause it's no  
 problem if you want (inaudible).  
 JOSEPH O.K., the only thing is that I have to . . .  
 I want to detract a little bit, o.k., because  
 I don't have anything for my head at all,  
 he didn't bring any extra. I'll take it  
 from the heavy bag.  
 GLASS Take that from the heavy thing.  
 JOSEPH O.K.  
 GLASS What do you want to do, take the stuff  
 down to his car or not.  
 SIEGEL You want to take that down to the car?  
 JOSEPH You want me to take it down with you.  
 SIEGEL Yes.  
 JOSEPH I'd prefer if you brought the bread up  
 here.  
 SIEGEL I just want to get out of here.  
 JOSEPH I'd prefer if you brought the bread up  
 here. Pause.  
 SIEGEL and  
 GLASS I can't believe it you know something, that  
 stuff better . . . is this much better . . .  
 you kidding me. . . Hey how's the . . .

(inaudible) . . . I never did that before. . .  
 If someone told.  
 JOSEPH James, you have a pen and pencil?  
 GLASS Yeah, why?  
 JOSEPH Count four times the price and tell me  
 how much it comes to.  
 GLASS Times what?  
 JOSEPH Four times the price and tell me how  
 much the total is.  
 GLASS I have to use a pen and pencil for that?  
 JOSEPH Laughter. I'm sorry.  
 GLASS I got a Master's Degree in accounting. I'll  
 use my fingers and toes.  
 GLASS Inaudible.  
 VOICE (R) Audrey?  
 JOSEPH Yup.  
 VOICE How much is this apartment rented for.  
 JOSEPH Three a month—this apartment—you  
 want it?  
 VOICE How much?  
 JOSEPH Three.  
 VOICE Three?  
 GLASS Inaudible . . . cables . . . cause I know  
 about . . . inaudible . . . to take my car  
 back. I'll go with her so you don't have  
 to hassle with what your carrying. In-  
 audible. . .  
 SIEGEL Inaudible . . . with that streetcorner the  
 way it is.  
 GLASS Inaudible. . . Give him a break Audrey.  
 AUDREY I'll give him a break . . . I'm taking . . .  
 inaudible . . . off.  
 GLASS Inaudible.  
 SIEGEL I don't think with a clear head till I'm  
 gone.  
 JOSEPH Inaudible.

GLASS Don't rip the uh . . . cellophane.  
 SIEGEL You got a pen on you, let me mark those.  
 Put my initial on them allright? If you  
 dont mind.  
 JOSEPH You can do anything you'd like with them,  
 they're yours now.  
 SIEGEL Inaudible.  
 JOSEPH (Inaudible) . . . leave them with Jimmy  
 alright? . . . and he'll hold them.  
 GLASS You'll walk him down, I'll wait here?  
 SIEGEL Yeah.  
 JOSEPH I'll go down with him.  
 GLASS Alright you can have the . . . inaudible. . .  
 JOSEPH How much does it come to.  
 GLASS Thirty-four. Inaudible.  
 GLASS Inaudible . . . I'm gonna put it in my  
 pocket.  
 SIEGEL You want to wait . . . inaudible. . .  
 GLASS Yeah. You want me to walk down with  
 you Audrey?  
 JOSEPH What?  
 GLASS You want me to walk down with you.  
 JOSEPH No I want you to wait here. Bill?  
 GLASS Why don't you hold these and I'll go down  
 with him.  
 Inaudible.  
 JOSEPH Bill.  
 VOICE Yeah.  
 JOSEPH Uh leave the friend below and watch me  
 go down to collect the money.  
 GLASS Then he'll come up and pick this up.  
 SIEGEL Yeah I wanna switch.  
 JOSEPH Okay I'll switch with you in the hall okay?  
 Just go down . . . just open the other  
 door, and just walk out in the hall. Okay?  
 Go ahead.

UNKNOWN Yeah.  
JOSEPH Its all yours. Unlock the door. Go on.  
UNKNOWN Inaudible . . . you come with him. Well  
where you gonna be.  
JOSEPH Inaudible (footsteps down stairs and in-  
audible conversation).  
SIEGEL This is what I like about . . . inaudible.  
VOICE I'll wait here.  
JOSEPH O.K. inaudible.  
SIEGEL What.  
JOSEPH Inaudible.  
SIEGEL Absolutely.  
JOSEPH Never mind Bill, I'll do it. Never mind  
(footsteps).  
SIEGEL Inaudible, this the floor.  
JOSEPH Inaudible . . . yeah that's the main one  
(door open and shut).





## AFFIDAVIT OF MAILING

STATE OF NEW YORK  
COUNTY OF KINGS  
EASTERN DISTRICT OF NEW YORK, ss:

-----CAROLYN N. JOHNSON-----, being duly sworn, says that on the ----23rd  
day of ----December, 1975----, I deposited in Mail Chute Drop for mailing in the  
U.S. Courthouse, Cadman Plaza East, Borough of Brooklyn, County of Kings, City and  
State of New York, ~~XX~~ Two copies of the Brief and Appendix for the  
Appellee  
of which the annexed is a true copy, contained in a securely enclosed postpaid wrapper  
directed to the person hereinafter named, at the place and address stated below:

-----Stanley Schimmel, Esq.-----

-----32 Court Street-----

-----Brooklyn, New York 11201-----

Sworn to before me this  
23rd day of December, 1975

*Martha J. Charf*

MARTHA J. CHARF  
Notary Public, State of New York  
No. 240460350  
Qualified in Kings County  
Commission Expires March 30, 1977

*Carolyn N. Johnson*  
-----CAROLYN N. JOHNSON-----



PLEASE TAKE NOTICE that the within will be presented for settlement and signature to the Clerk of the United States District Court in his office at the U. S. Courthouse, 225 Cadman Plaza East, Brooklyn, New York, on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at 10:30 o'clock in the forenoon.

United States Attorney,  
Attorney for -----

To:

**SIR:**

PLEASE TAKE NOTICE that the within  
is a true copy of \_\_\_\_\_ duly entered  
herein on the \_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, in the office of the Clerk of  
the U. S. District Court for the Eastern Dis-  
trict of New York,  
Dated: Brooklyn, New York,

United States Attorney,  
Attorney for -----  
To:

----- Action No. -----

**UNITED STATES DISTRICT COURT**  
**Eastern District of New York**

—Against—

United States Attorney,  
Attorney for \_\_\_\_\_  
Office and P. O. Address,  
U. S. Courthouse  
225 Cadman Plaza East  
Brooklyn, New York 11201

Attorney for -----